THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14505 of 2006

Dated: 30.11.2007

Between:

Katari Chinnappa.

..Petitioner.

and

The Executive Officer, T.T.Ds., Tirupati, Chittoor District and others.

..Respondents.

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14505 of 2006

ORDER:

This writ petition is filed seeking a Mandamus declaring the charge memo/article of charges issued in Roc.No.DA3/16073/05 dated 19.08.2005 and 11.08.2005, and consequential proceedings appointing the presenting officer, dated 17.06.2006, as illegal, arbitrary, without authority and violative of Articles 14,16 & 21 of the Constitution of India.

It appears, petitioner joined the services of Tirumala Tirupati Devasthanam on 22.08.1966 and after serving at various levels, he retired from service on 30.06.2005 on attaining age of superannuation. Thereafter, on 19.08.2005, impugned charge memo has been issued and an Enquiry Officer was appointed on 16.11.2005 to conduct enquiry into the said charges. However, petitioner did not participate in the enquiry and no final orders are passed as of now.

Learned counsel for the petitioner strenuously contended that firstly the authority has no power to conduct an enquiry into allegations after retirement of an employee; secondly no provisional pension, as required under Rule 52 of the Andhra Pradesh Revised Pension Rules, 1980 (for short 'the Rules') was paid, therefore, the proceeding with the enquiry against him is

vitiated under the law.

Insofar as the power of the respondents in proceeding with the enquiry is concerned, learned counsel appearing for TTD has produced the very resolution passed by the Board granting permission to proceed with the disciplinary proceedings launched against the petitioner. Therefore, it cannot be said that the disciplinary proceedings are being conducted without any authority of law.

Insofar as payment of provisional pension under Rule 52 of the Rules is concerned, the respondents have stated that they have not paid the provisional pension, as required under Rule 52 of the Rules since there is no necessity of passing such an order.

I am of the opinion that the payment of provisional pension of a retired employee during the pendency of the disciplinary proceedings is something akin to the subsistence allowance paid to a serving employee when he is suspended pending disciplinary proceedings. Therefore, it cannot be said that non-payment of the provisional pension under Rule 52 of the Rules during the pendency of the disciplinary proceedings against the petitioner is not vitiated. The enquiry definitely gets vitiated if the provisional pension is not paid as required under Rule 52 of the Rules. Further, this Court never prohibited the TTD authorities from paying provisional pension during the pendency of the writ petition and pending enquiry. In respect thereof being no such prohibition, acts of the respondents in proceeding with the enquiry without payment of the provisional pension, as required under Rule 52 of the Rules, is arbitrary and illegal. Therefore, while holding that the TTD authorities have the power to conduct enquiry even after retirement of an employee from his service, the enquiry conducted

in this case is declared as null and void. Therefore, liberty is granted to the TTD authorities to conduct fresh enquiry after payment of the provisional pension to the petitioner from the date of retirement from service, till conclusion of the enquiry.

With the above direction, the Writ Petition is disposed of. No costs.

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C.V.RAMULU, J

Dated: 27.11.2007.

sj